

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

UNITED STATES FOR THE USE AND  
BENEFIT OF MID STATE CONSTRUCTION  
COMPANY, INC.; and MID STATE  
CONSTRUCTION COMPANY, INC.

PLAINTIFFS

VS.

CIVIL ACTION NO. 5:11-cv-169(DCB)(MTP)

TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA; U.S.  
COATING SPECIALTIES & SUPPLIES,  
LLC; and EARL WASHINGTON

DEFENDANTS

ORDER

This cause is before the Court on plaintiff Mid State Construction Company, Inc. ("Mid State")'s Motion in Limine to Exclude Stacey O'Neal (**docket entry 127**). Having carefully considered the motion and response, the memoranda and applicable law, and being fully advised in the premises, the Court finds as follows:

Mid State seeks an order excluding Travelers Casualty and Surety Company of America ("Travelers")'s financial expert Stacey O'Neal on the basis that Mr. O'Neal does not base his expert opinions on sufficient facts and data as required by Fed.R.Evi. 702 and Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579 (1993).

Travelers replies that Mid State's argument goes to the weight of the evidence, not the relevance or reliability of the witness's testimony. Furthermore, Travelers asserts that O'Neal bases his opinion testimony on reliable data, and that the weight to be given

the witness's testimony should be determined by the fact finder.

Since this is a bench trial, the Court finds that this is a matter better left to the time of trial, when the parties can re-urge their positions before the Court. Accordingly,

IT IS HEREBY ORDERED that plaintiff Mid State Construction Company, Inc.'s Motion in Limine to Exclude Stacey O'Neal (**docket entry 127**) is DENIED without prejudice, and the plaintiff can re-urge its motion at trial.

SO ORDERED, this the 18th day of November, 2013.

/s/ David Bramlette  
UNITED STATES DISTRICT JUDGE